



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2101

IN REPLY REFER TO

5720
Ser COS5.2/2013F100004
DEC 5 2012

MR BRANDON WIEBER
MUCK ROCK NEWS
DEPT MR 1940
PO BOX 55819
BOSTON MA 02205-5819

SUBJECT: FREEDOM OF INFORMATION ACT CASE NAVSEA-HQ 2013F100004

Dear Mr. Wieber:

This refers to your September 28, 2012, Freedom of Information Act (FOIA) request in which you seek documents related to the following items:

1. any requests for proposals, proposals submitted by vendors, contracts, budgets or cost allocations for the purchase and/or use of aerial drones, UAS, UAVs, and UASS (hereinafter "drones");
2. any policies, guidelines, manuals and/or instructions on department use of drones, including on the legal process required (such as a warrant or court order), if any, before operating a drone;
3. any departmental records concerning this department's use of drones now or plans to use drones in the future including:
 - a. the types of investigations or instances in which this department is using or plans to use drones, or how it plans to support, manage or oversee the usage of drones by another department or office;
 - b. policies, guidelines, manuals and/or instructions on storage requirements or procedures for video or static images obtained through use of drones, including retention times;
 - c. the altitude at which drones can or do fly;
 - d. drones' ability to carry weapons.

Based on the information provided in your letter, we are unable to process your request at this time. The FOIA is a record retrieval statute, and based on the information provided in your request, it is unclear what specific records you are requesting. In accordance with the U.S. Navy FOIA regulations (see 32 C.F.R § 701.32), a requester is required to describe the record sought so that a knowledgeable

official can locate the record with a reasonable amount of effort ". . . Courts have held that agencies are not required to conduct wide-ranging, unreasonably burdensome searches for records." (U.S. Department of Justice Guide to the Freedom of Information Act Guide, May 2009, page 49)

Descriptive information about a record may be divided into two broad categories:

- (i) Category I is file-related and includes information such as type of record, title, index citation, subject area, date the record was created, or its originator.
- (ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, non-random search based on the existing filing arrangements and retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search. ". . . FOIA [is] not intended to reduce government agencies to full-time investigators on behalf of requesters, or to allow requesters to conduct fishing expeditions through agency files." (U.S. Department of Justice Guide to the Freedom of Information Act Guide, May 2009, page 47)

NAVSEA is not equipped to conduct a text search for a term such as "any requests, any policies... any departmental records" throughout all files in the Agency that will produce a list of responsive records. Information of this nature is produced and compiled by various offices throughout the NAVSEA. Without more specific information regarding the type of documents you are requesting or the originator of those documents, we are unable to process your request.

We cannot proceed further with your request until we receive additional clarification from you and you have stated a willingness to pay all associated processing fees or provide sufficient justification to warrant a fee waiver (or partial fee waiver). If we do not hear from you within 20 workdays of the date of this letter, we will assume you are no longer interested in this matter and will close the file on your request.

In your letter you requested a fee waiver based on media status and stated: "I believe this request is in the public interest. The requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, processed by a representative of the news media/press and is made in

the process of news gathering and not for commercial usage." Please be advised that until you provide sufficient information/limitation of scope to allow us to conduct a reasonable, non-random search for responsive records, we are unable to address your request for a fee waiver.

Requests for a waiver of fees are based on several factors, including the documents as well as a public interest in those documents. Therefore, we are providing you with the information below. Please ensure you provide sufficient information to answer each question with regard to each document you are requesting in addition to providing sufficient information to show a public interest in the information.

While we understand you are a representative of MuckRock News, before we grant you a waiver of fees, we must determine whether your request meets the twofold objectives for fee waivers established by the Department of the Navy and the Department of Justice; that is, whether disclosure of the information is in the public interest because it:

- (1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and
- (2) Is not primarily in the commercial interest of the requester.

Before we make a decision on your request for a fee waiver we ask, in accordance with regulations and the Department of Justice FOIA Guide and Overview, that you provide information in response to the following questions so that we can determine if granting the waiver or a reduction in fees is in the public interest. The Agency considers the following factors when determining if disclosure of information is likely to contribute significantly to public understanding (public interest) of the operations or activities of the Government:

1. Does the record specifically concern identifiable operations or activities of the Agency? If the record(s) concern the operations or activities of the Agency, is disclosure likely to contribute to public understanding of those operations and activities? To qualify as a FOIA-recognized public interest in disclosure, the information must shed light on an agency's performance of its statutory duties. You must also articulate the public interest in the documents you are requesting.
2. Are the disclosable contents of the record(s) meaningfully informative in relation to the subject of the request? For example, is this information of wide public interest and will your disclosure be unique in enhancing public knowledge.

3. Is the focus of the requester on contributing to public understanding rather than on the individual understanding of the requester or a narrow segment of interested persons?
4. If there is likely to be a contribution to public understanding, will that contribution be significant? A contribution to public understanding will be significant if the information disclosed is new, clearly supports public oversight of Agency operations, including the quality of Agency activities and the effect of policy and regulations on public health and safety, or otherwise confirms or clarifies data on past or present operations of the Agency. Your identity, vocation, qualification(s), and expertise regarding the requested information may be relevant factors.

Furthermore, you must demonstrate how you plan to disclose the information and you must disseminate the information to the general public or a reasonably broad audience. (Dissemination to a wide audience is not merely posting the documents on a website, but providing an informative analysis of the information.) Public understanding must be enhanced by disclosure to a significant extent. Requesters who make no showing of how the information would be disseminated, other than through passively making it available to anyone who might seek access to it, do not meet the burden of demonstrating with particularity that the information will be communicated to the public (U.S. Department of Justice Guide to the Freedom of Information Act Guide, May 2009, page 131); also see FOIA Update, Vol. VIII, No. 1 at 8 ("OIP Guidance: New Fee Waiver Policy Guidance") (advising agencies that . . . requests should be analyzed to identify particular person or persons who actually will use requested information in scholarly or other analytic work and then disseminate it to general public.)

Requests for a waiver or a reduction of fees must be considered on a case-by-case basis and should address these requirements in sufficient detail for this office to make an informed decision as to whether we can appropriately waive or reduce the fees in question. A past grant of a fee waiver does not entitle a FOIA requester to any future FOIA fee waiver. Each fee waiver request must be considered on its own merits. Therefore, you must be specific in addressing the twofold objective for fee waivers for each FOIA request you submit. Additionally, please ensure your responses address each item you are requesting.

We ask that you provide us with sufficient information to make a determination regarding your request. If we determine from your response that you do not support your request for news media status in accordance with DON regulations and Department of Justice guidance, we will then process your request in the "other" category of requester. Requesters in the "other" category are entitled to two hours of search and 100 pages of copy fees without charge (32 CFR Part 701 Subpart C).